

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ERNEST EVANS,

Plaintiff,

v.

CONNIE EISEN, et al.,

Defendants.

No. 2:22-cv-0778 AC P

ORDER

Plaintiff is a state prisoner, proceeding without counsel. Plaintiff has filed a “Motion to Clarify for the Court.” ECF No. 26. The filing is comprised of plaintiff’s reply to a defendant’s answer and a request for and responses to discovery. Id.

Responses to answers are not contemplated by the Federal Rules of Civil Procedure unless ordered by the court. Pursuant to Rule 12(a)(1)(C), “[a] party must serve a reply to an answer within 21 days after being served with an order to reply, unless the order specifies a different time.” Fed. R. Civ. P. 12(a)(1)(C). As for discovery, “disclosures under Rule 26(a)(1) or (2) and the following discovery requests and responses must not be filed until they are used in the proceeding or the court orders filing: depositions, interrogatories, requests for documents or tangible things or to permit entry onto land, and requests for admission.” Fed. R. Civ. P. 5(d)(1)(A). Additionally, the discovery and scheduling order in this case, in pertinent part, states:

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Discovery requests shall not be filed with the court except when required by Local Rules 250.1, 250.2, 250.3, and 250.4. . . The parties are cautioned that filing of discovery requests or responses, except as required by rule of court, may result in an order of sanctions, including, but not limited to a recommendation that the action be dismissed or the answer stricken.

ECF No. 22 at 5.

Although plaintiff labels his filing as a motion, it appears to be a notice of filing with attachments. Because the filing is comprised of unauthorized filings, the notice and attachments (ECF No. 26) will be stricken.

DATED: September 2, 2025

Allison Claire
ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE

Rand Notice to Plaintiff

This notice is provided to ensure that you, a pro se prisoner plaintiff, “have fair, timely and adequate notice of what is required” to oppose a motion for summary judgment. See Woods v. Carey, 684 F.3d 934 (9th Cir. 2012); Rand v. Rowland, 154 F.3d 952, 957 (9th Cir. 1998). The court requires that you be provided with this notice regarding the requirements for opposing a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure.

When a defendant moves for summary judgment, the defendant is requesting that the court grant judgment in defendant’s favor without a trial. If there is no real dispute about any fact that would affect the result of your case, the defendant who asked for summary judgment is entitled to judgment as a matter of law, which will end your case against that defendant. A motion for summary judgment will set forth the facts that the defendant asserts are not reasonably subject to dispute and that entitle the defendant to judgment.

To oppose a motion for summary judgment, you must show proof of your claims.¹ To do this, you may refer to specific statements made in your complaint if you signed your complaint under penalty of perjury and if your complaint shows that you have personal knowledge of the matters stated. You may also submit declarations setting forth the facts that you believe prove your claims, as long as the person who signs the declaration has personal knowledge of the facts stated. You may also submit all or part of deposition transcripts, answers to interrogatories, admissions, and other authenticated documents. For each of the facts listed in the defendant’s Statement of Undisputed Facts, you must admit the facts that are undisputed, and deny the facts that are disputed. If you deny a fact, you must cite to the proof that you rely on to support your denial. See L.R. 260(b). If you fail to contradict the defendant’s evidence with your own evidence, the court may accept the defendant’s evidence as the truth and grant the motion.

The court will consider a request to postpone consideration of the defendant’s motion if you submit a declaration showing that for a specific reason you cannot present such facts in your opposition. If you do not respond to the motion, the court may consider your failure to act as a waiver of your opposition. See L.R. 230(l).

If the court grants the defendant’s motion, whether opposed or unopposed, judgment will be entered for that defendant without a trial and the case will be closed as to that defendant.

¹ If the motion for summary judgment concerns the exhaustion of administrative remedies, you must submit proof of specific facts regarding the exhaustion of administrative remedies. See Stratton v. Buck, 697 F.3d 1004, 1008 (9th Cir. 2012); Albino v. Baca, 747 F.3d 1162 (9th Cir. 2014).